

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JAMES B. YOAKUM, WILLIAM	§
MATTHEW MURPHY, CHAD ALLEN	§
MORGAN, ERNEST RAY GILL,	§
RONALD MORGAN AND JOSEPH E.	§
BARROW, on Behalf of Themselves	§
and Others Similarly Situated	§
Plaintiffs,	§
	§
V.	§ CIVIL ACTION NO. 4:10-cv-00278
	§
PBK ARCHITECTS, INC.	§ (Jury)
Defendant.	§

**PLAINTIFFS' FOURTH AMENDED COMPLAINT**

**SUMMARY**

1. PBK Architects, Inc. (hereinafter "PBK") failed to pay James B. Yoakum, William Matthew Murphy, Chad Allen Morgan, Ernest Ray Gill, Ronald Morgan and Joseph E. Barrow (hereinafter "Plaintiffs") and other similarly situated non-exempt employees the appropriate overtime wages required by the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 et seq. Accordingly, Plaintiffs bring this collective action to recover the unpaid overtime wages and other damages owed to them and to other similarly situated workers.

**JURISDICTION AND VENUE**

2. This Court has subject matter under 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

3. Venue is proper in the Southern District of Texas - Houston Division because a substantial part of the acts and conduct charged herein occurred in this district.

**THE PARTIES**

4. Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and

Joseph E. Barrow live in the Southern District of Texas. Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill and Joseph E. Barrow were employees of PBK within the past three years. Ronald Morgan is a current employee of PBK. Their written consents are attached hereto as Exhibit 1, Exhibit 2, Exhibit 3, Exhibit 4, Exhibit 5 and Exhibit 6.

5. The class of similarly situated employees consists of all "field representatives," "construction services representatives," "quality control representatives" and "construction administrators" employed by PBK in the past three years. These similarly situated persons are referred to as "Members of the Class" or "the Class."

6. PBK Architects, Inc. is a Texas corporation and enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA because its annual gross volume of sales or business done exceeds \$500,000, and its employees (including Mr. Yoakum and all other members of the Class) are engaged in commerce or handle or work on goods or materials that have been moved in or been produced for commerce. 29 U.S.C. § 203(s)(1). PBK has answered and appeared in this case and may be served with this Fourth Amended Complaint by serving its attorneys of record Jeffrey C. Londa and Flyn L. Flesher of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 500 Dallas Street, Suite 3000, Houston, Texas 77002-4709.

#### THE FACTS

7. PBK employed Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow in a position that has been referred to interchangeably as "field representative," "construction services representative," "quality control representative" and "construction administrator." These PBK employees traveled to different job sites to observe and report work progress to their employer. Their duties

did not include any supervision of other company employees nor did it require any license other than a Texas drivers license and there was not any advanced or specialized educational requirement. Plaintiffs Ronald Morgan and Joseph E. Barrow served as field representatives of PBK with respect to mechanical, electrical and plumbing aspects of PBK job sites. The other named Plaintiffs did not serve as field representatives with respect to mechanical, electrical and plumbing aspects of PBK job sites.

8. As hourly and non-exempt employees of PBK, Plaintiffs consistently worked more than forty (40) hours per week and were entitled to receive overtime pay calculated at one and one half times his regular rate of pay. Nevertheless, PBK failed to pay Plaintiffs and PBK's other similarly situated employees any overtime for hours worked more than 40 in a week.

9. Therefore, PBK violated the overtime wage requirements of the FLSA.

#### **COLLECTIVE ACTION ALLEGATIONS**

10. PBK employed other "field representatives," "construction services representatives," "quality control representatives" and "construction administrators."

11. The other "field representatives," "construction services representatives," "quality control representatives" and "construction administrators" employed by PBK performed job duties similar to those performed by Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow.

12. Like Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow, these "field representatives," "construction services representatives," "quality control representatives" and "construction administrators" regularly worked more than forty (40) hours per week and PBK failed to pay them any

overtime wages.

13. Like Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow, these similarly situated workers are entitled to recover their unpaid overtime wages. Therefore, opt in notice of this collective action is appropriately sent to:

**"All 'field representatives,' 'construction services representatives,' 'quality control representatives' and 'construction administrators' employed by PBK during the period January 28, 2007 to the present."**

#### **CAUSES OF ACTION**

14. Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow incorporate the allegations in the preceding paragraphs.

15. PBK's practice of failing to pay any overtime wages to Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow and similarly situated employees violated the FLSA. Accordingly, Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow and the Members of the Class are entitled to overtime wages for the overtime worked at time and half their regular rate of pay.

16. Additionally, Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow and all those similarly situated are entitled to an amount equal to all of their unpaid wages as liquidated damages, as well as reasonable attorneys' fees and costs of this action. 29 U.S.C. § 216(b).

17. PBK's failure and refusal of PBK to pay overtime was intentional and in bad faith and pursuant to a unitary companywide "no overtime" policy for employees similarly situated to Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow. PBK knew or showed reckless disregard for whether its refusal to pay overtime was prohibited by the FLSA. For such reason, its conduct was "willful" as

described in 29 U.S.C. § 255(a).

**JURY DEMAND**

18. Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow hereby demand a trial by jury.

**PRAYER**

Mr. Yoakum, Mr. Murphy, Chad Allen Morgan, Mr. Gill, Ronald Morgan and Joseph E. Barrow respectfully request that judgment be entered against PBK awarding them and all similarly situated employees:

- a. overtime wages calculated at one and a half the regular rate of pay for all hours worked in excess of forty (40) in a workweek;
- b. an equal amount as liquidated damages;
- c. reasonable attorneys' fees, costs, and expenses of this action; and
- d. such other and further relief as may be required by law.

Respectfully submitted,

**OF COUNSEL:**

**PAUL WEBB, P.C.**  
**VINCENT L. MARABLE III**  
State Bar No. 12961600  
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221 N. Houston  
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**BLAKENEY, FLYNN & MUMNEY, PLLC**

/s/ E. Troy Blakeney, Jr.  
**E. TROY BLAKENEY, JR.**  
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Federal I.D. No. 19772  
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Telephone: (713) 222-9115  
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**COUNSEL FOR PLAINTIFFS**

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded in accordance with the Federal Rules of Civil Procedure to the following individuals on this 2<sup>nd</sup> day of February, 2011:

Jeffrey C. Londa  
Flyn L. Flesher  
Ogletree, Deakins, Nash,  
Smoak & Stewart, P.C.  
500 Dallas Street, Suite 3000  
Houston, Texas 77002-4709

VIA E-MAIL

/s/ E. Troy Blakeney, Jr.  
**E. TROY BLAKENEY, JR.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JAMES B. YOAKUM, on Behalf of  
Himself and Others Similarly Situated

Plaintiff,

v.

PBK ARCHITECTS, INC.

Defendant.

CIVIL ACTION NO. \_\_\_\_\_

NOTICE OF CONSENT

I, James B. Yoakum, hereby consent to be a party plaintiff in this case, which is a suit to recover unpaid overtime wages under the Fair Labor Standards Act.

January 27, 2010

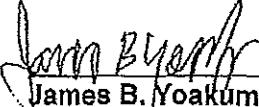
  
\_\_\_\_\_  
James B. Yoakum

Exhibit "1"

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JAMES B. YOAKUM, IRVING JOSEPH  
GARRETT, on Behalf of Themselves  
and Others Similarly Situated

Plaintiff,

v.

PBK ARCHITECTS, INC.

Defendant.

CIVIL ACTION NO. 4:10-cv-00278

(Jury)

NOTICE OF CONSENT

I, William Matthew Murphy, hereby consent to be a party plaintiff in this case, which is a suit to recover unpaid overtime wages under the Fair Labor Standards Act.

September 27, 2010

William Matthew Murphy

Exhibit "2"

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JAMES B. YOAKUM AND WILLIAM  
MATTHEW MURPHY, on Behalf of  
Themselves and Others Similarly  
Situated

Plaintiffs,

v.

PBK ARCHITECTS, INC.

Defendant.

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CIVIL ACTION NO. 4:10-cv-00278

(Jury)

NOTICE OF CONSENT

I, Chad Allen Morgan, hereby consent to be a party plaintiff in this case, which is a suit to recover unpaid overtime wages under the Fair Labor Standards Act.

October 26, 2010

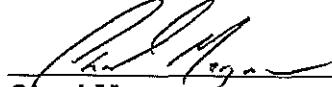
  
\_\_\_\_\_  
Chad Morgan

Exhibit "3"

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JAMES B. YOAKUM, WILLIAM  
MATTHEW MURPHY AND CHAD  
ALLEN MORGAN, on Behalf of  
Themselves and Others Similarly  
Situated

**Plaintiffs,**

V.

**CIVIL ACTION NO. 4:10-cv-00278**

# PBK ARCHITECTS, INC.

(Jury)

Defendant.

## NOTICE OF CONSENT

I, **Ernest Ray Gill**, hereby consent to be a party plaintiff in this case, which is a suit to recover unpaid overtime wages under the Fair Labor Standards Act.

November 17, 2010

Ernest R. Gill

Ernest Ray Gill

#### Exhibit 4

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JAMES B. YOAKUM AND WILLIAM  
MATTHEW MURPHY, on Behalf of  
Themselves and Others Similarly  
Situated

**Plaintiffs,**

v.

**CIVIL ACTION NO. 4:10-cv-00278**

## PBK ARCHITECTS, INC.

(Jury)

**Defendant.**

## NOTICE OF CONSENT

I, Ronald Gene Morgan, Jr., hereby consent to be a party plaintiff in this case, which is a suit to recover unpaid overtime wages under the Fair Labor Standards Act.

November 5, 2010

Ronald Gene Morgan, Jr.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

**JAMES B. YOAKUM, ET AL,  
on Behalf of Themselves and  
Others Similarly Situated**

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**CIVIL ACTION NO. 4:10-cv-00278**

# PBK ARCHITECTS, INC.

(Jury)

Defendant.

## NOTICE OF CONSENT

I, Joseph E. Barrow, hereby consent to be a party plaintiff in this case, which is a suit to recover unpaid overtime wages under the Fair Labor Standards Act.

January 25, 2011

  
Joseph E. Barrow